REMARKS:

The claims in the application are 1-34 and claim 35 has been added by the present amendment. No new matter has been added.

Favorable reconsideration of the application as amended is respectfully requested.

Claim 1 has been amended to better describe the invention, that is, defining the spot lights as *"reference signal white light spots* positioned in said recording device and said reference signal white light spots are recorded at the same time as a picture is taken." No new matter has been added.

Claim 1 has been rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Additionally, Claims 1-33 have been rejected under 35 U.S.C. §103(a) as obvious over U.S. Pat. No. 4,511,229 to Schwartz et al in view of U.S. Pat. No. 4,977, 521 to Kaplan. In the previous response the Applicants presented the signed Declaration by the inventor, Franz Josef Gassmann that clearly described the features and advantages provided by the presently claimed invention. As stated in the Declaration, the present invention reduces errors caused by aging and temperature dependence of film. This is accomplished by creating and recording one or more white light spots or signals at the time a picture is taken. This recorded light signal has nothing to do with source light illuminating a scene being photographed (paragraph 7 of the enclosed Declaration).

The rejection of Claim 1 under 35 U.S.C. §112, first paragraph, is explicitly addressed in paragraphs 9-12 of the enclosed Declaration. As stated in paragraph 9 of the Declaration, the first paragraph on page 4 of the specification explicitly states the media

generate a light signal with known spectral intensity distribution or chromaticity coordinates and recorded on the recording medium in the camera to create a reference signal by which the recording is calibrated. Compensating aging and temperature differential is also described on pages 2-3 of the specification (paragraph 10 of the Declaration). Additionally, it is stated on page 6 of the specification that during development of film, the spectral range is only exposed until the white light spot is appropriately white.

Therefore, it is stated by Mr. Gassmann in paragraph 11 of his Declaration, the exposure process described on page 6 of the specification only makes sense if the reference signal is recorded at the same time a picture is taken. Accordingly, Mr. Gassmann concludes, in paragraph 12 of his Declaration, the disclosure found in the present application clearly teaches one skilled in the art that reliable reproduction of color or brightness information can only be attained if the reference signal, i.e., one or more white light spots, is taken at the same time a picture is taken.

The combination of Schwartz et al with Kaplan is addressed in paragraphs 13-20 of the enclosed Declaration. As stated in paragraph 13, Schwartz et al fail to show or suggest application of media creating one or more white light spots. Schwartz et al disclose three filters, with light passing by fiber optic bundles to the film margin after passing the filters. Such arrangement is unreliable because the filters might differ in quality, light distribution the filters might not be uniform and the fiber bundles might not possess equal length. Furthermore, it is impossible to use a film possessing more than three layers in such apparatus which is directed to recording parameters describing illuminating conditions. In contrast, the presently claimed invention operates independently of illumination conditions. Neither Schwartz et al nor Kaplan teach provide

a light source in the camera that is independent of the illumination of the object and/or scene being photographed.

Furthermore, as pointed out in paragraphs 14 and 15 of the enclosed Declaration, the present invention functions independently from the illuminating conditions which must be recorded in Schwartz et al every time such conditions change. If such conditions remain constant, then there is no need for a photographer to further record any parameters. Accordingly, Schwartz et al is unsuitable for detecting or compensating for aging of photographic film. Kaplan fails to remedy the deficiencies in Schwartz et al for the reasons addressed in paragraphs 16-19 of the enclosed Declaration.

More particularly, Kaplan is directed to reducing noise in photographic emulsions and has nothing to do with compensating declining sensitivity of film. As explicitly stated in paragraph 16 of the Declaration, there is no suggestion in Kaplan of recording a white light spot at the same time a picture is taken. It is pointed out by Mr. Gassmann, column 5, line 66- column 6, line 11 of Kaplan teach exposing one from by the film development laboratory or during manufacture, but not by the photographer at the time a picture is taken.

Furthermore, Kaplan is explicitly directed to utilizing negative color dye Dn and positive color dye Dp to reduce noise, requiring complicated, expensive equipment. Thus, Kaplan is only concerned with noise formation and fails to contemplate aging effect of the film. It is concluded by Mr. Gassmann in paragraphs 18 and 19 of his Declaration, there is no logical reason to relate collecting illuminating conditions (Schwartz et al) with noise reduction (Kaplan). Schwartz et al cannot be used to further reduce noise, while Kaplan cannot be used to enhance retrieval of illumination information of the object and/or scene

being photographed.

In fact, using the apparatus of Schwartz et al to determine specific histogram functions of a film would destroy the noise reduction effect of Kaplan. This is described in paragraph 19 of the Declaration, where exposing the film to the exposure level gray scale mask illuminated by the source light illuminating a scene will result in varying histogram functions unsuitable for noise reduction. Accordingly, Mr. Gassmann concludes, in paragraph 20 of his Declaration, even if he could logically consider and combine the teachings of Schwartz et al and Kaplan, such a combination of different methods and systems would fail to provide an enhanced system or method for solving time-dependent aging of film.

However, in considering these arguments the Examiner has dismissed the Declaration under 37 CFR §1.132 filed June 23, 2006 as insufficient to overcome the rejection of the claims based upon 35 USC § 103 and 35 USC §112 because the Declaration was made by one of the inventors. In other words, the dismisses the Expert Opinion Declaration executed by the inventor because the Declaration was made by the inventor himself, i.e., an interested party; however, the very last paragraph of M.P.E.P. §716.01(c) III (to which the Examiner refers), explicitly states the following:

> An affidavit of an applicant as to the advantages of his or her claimed invention, while less persuasive than that of a disinterested person, cannot be disregarded for this reason alone. *Ex parte Keyes*, 214 USPQ 579 (Bd. App. 1982); *In re McKenna*, 203 F.2d 717, 97 USPQ 348 (CCPA 1953).

Accordingly, the Examiner must consider this Declaration and cannot automatically dismiss this Declaration just because it has been executed by the inventor.

In the Office Action, the Examiner has also rejected claim 34 under 35 USC §102

(b) as being anticipated by US Patent No. 4,511,229 to Schwartz. However a review of Schwartz et al indicates that the reference fails to show or suggest the application of one or more media for creating one or more white light spots with known spectral intensity distribution and/or chromaticity coordinates and/or brightness, for the following reasons. This reference discloses three filters, with light passing by fiber optic bundles to the film margin after passing the filters. Such apparatus and procedure are relatively complicated and likely to fail because the (i) filters might differ in quality, (ii) light distribution on the filters might not be uniform and (iii) fiber bundles may not possess equal length. Furthermore, the process disclosed in Schwartz is limited in that a film comprising more than three layers cannot be used in such apparatus which is directed to recording parameters describing the illumination condition as indicated in the Abstract of this reference, in contrast to the present invention which operates independently of any illumination conditions;

In addition, Schwartz et al films are optimized to provide best results if a specific spectral distribution of the illuminating light is present. However, if the illumination conditions are changed, the result will differ from optimal. Therefore, photographers will try to compensate effect of changing scene illumination by first recording information of existing illumination and subsequently using this information for modified development of the film and generated pictures. As shown in Fig. 1 of Schwartz et al, a few digital values obtained from illuminating light are recorded after passing through different optical filters functioning in transmission. Alternatively, as shown in Figs. 2-5, instead of recording digital values, it is possible to store light from the illuminated scene directly on the film after passing through different optical filters.

In contrast to Schwartz et al, in the present invention parameters describing illuminating conditions need not be recorded, neither digitally nor directly on the film. Illuminating conditions are not a factor in the present invention which functions independently of illuminating conditions. Furthermore, Schwartz et al intend to record a

set of parameters describing illuminating conditions every time such conditions change. Therefore, a user, e.g., a portrait photographer, who has not changed illuminating equipment will have no need to further record any parameters if already recorded once. Therefore, Schwartz et al is unsuitable for detecting or compensating any effects relating to aging of photographic emulsions

In view of the foregoing, it is respectfully requested that the rejection of claim 34 under 35 USC §102(b) be reconsidered and withdrawn.

This amendment is being filed with a petition for a three month extension of time. Early favorable action is earnestly solicited.

Respectfully submitted,

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